

E-017/M-94-539 ORDER APPROVING SETTLEMENT AND OTTER TAIL POWER
COMPANY'S PROPOSED CIP ADJUSTMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
Dee Knaak

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Otter Tail Power Company's
Petition for Approval of an Annual Recovery
Mechanism for Conservation Related Expenses

ISSUE DATE: December 23, 1994

DOCKET NO. E-017/M-94-539

ORDER APPROVING SETTLEMENT AND
OTTER TAIL POWER COMPANY'S
PROPOSED CIP ADJUSTMENT

PROCEDURAL HISTORY

On June 15, 1994, Otter Tail Power Company (OTP) filed its petition for a Conservation Improvement Program (CIP) Adjustment.

On July 22, 1994, the Minnesota Department of Public Service (the Department) filed comments recommending approval of the adjustment. On the same day, the Large General Service Group (LGSG), a group of large OTP customers, filed comments recommending that the Commission deny OTP's petition, order a general rate filing, and order OTP to recover CIP costs directly through rates.

On August 9, OTP and the Department filed response comments.

Subsequently, the parties conducted settlement discussions. Because comments in this docket had contemplated a potential earnings investigation and rate case, the Residential Utilities Division of the Office of the Attorney General (the RUD-OAG) was also invited to participate in those discussions.

On October 18, 1994, OTP filed its Motion to File Amended Petition and Accept Settlement Agreement. The Motion was accompanied by a settlement agreement, signed by OTP, the Department, the LGSG and RUD-OAG, which modified the Company's initial petition and purported to resolve all of the issues in this docket.

On December 15, 1994, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Background

In May, 1993, the Minnesota Legislature authorized the Commission to permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements (MN Laws 1993, Chapter 49 (HF 295)). The Commission invited interested parties to participate in an informal discussion on implementing an annual CIP adjustment. The Commission's goal in initiating this discussion was to permit an examination of ideas and concerns in an informal setting, and possibly to develop a consistent framework for

implementing this adjustment in the event it is authorized by the Commission. Interested parties were invited to the discussion with the understanding that they would not be required to waive any policy arguments against an adjustment by participating in a discussion of implementation options.

The CIP Adjustment Implementation Study Group met three times between July and September and achieved agreement on a substantial number of issues. The agreements are set forth in the "Report of the CIP Adjustment Implementation Study Group", which was distributed to the Commission on November 8, 1993 and is also attached to this document.

Subsequent to the filing of this Report, the Commission has proceeded on a case-by-case basis and approved CIP adjustments for three other utilities: Minnesota Power Company, Dakota Electric Association, and Peoples Natural Gas Company.

B. The Proposed Settlement

After discussions between the parties, OTP, the LGSG, the Department and the OAG filed a settlement agreement and amended petition which resolved all of the issues between the parties relating to this docket. The settlement agreement encompassed the following points:

1. Beginning January 1, 1995, the revised amount of CIP costs in Otter Tail Power's base rates shall be considered to be \$1,274,300 (the estimated 1995 mandated CIP expenditures).
2. Beginning January 1, 1995, OTP will eliminate the December 31, 1994 CIP tracker account balance (estimated to be \$3,831,200) by amortizing that balance over three years. Rates will not be increased to reflect this amortization.
3. Any amounts charged to the CIP tracker account greater than or less than the revised amount in base rates will be deferred and recovered through the proposed automatic recovery mechanism.

According to the settlement agreement, OTP would use a Conservation Cost Recovery Charge (CCRC) of \$0.0007566/kWh, based on 1995 forecast sales of 1,683,353,000 kWh, to calculate CIP collections through base rates. In addition, the current CIP tracker balance would not be collected from ratepayers.

The Settlement Agreement calls for the approval of an automatic adjustment mechanism for conservation expenditures as proposed by OTP, but does not contemplate an adjustment at this time. In its April 1, 1995 filing, OTP would apply for an adjustment to reflect 1995 approved versus projected CIP expenses and any lost margins and financial incentives approved by the Commission for 1994.

The parties estimated that the effect of the settlement agreement would be to reduce OTP's projected 1995 ROE by approximately 150 basis points, to 10.4 percent. The settlement agreement included an analysis by the Department of Public Service which concluded that the agreement results in return levels for OTP that are within the range of reasonableness.

OTP's amended petition requested approval for the adjustment mechanism and associated rule variances as originally proposed, without an adjustment for the amortization of its CIP tracker balance or an adjustment for current or projected CIP expenditures.

C. Incidental Rule Variances

As with other utilities who have received approval for a CIP adjustment, OTP proposed combining this adjustment with its Fuel Clause Adjustment (FCA) on its bills, and calling the new adjustment a "Resource Adjustment." OTP proposed to notice customers either prior to the adjustment appearing on bills, or at the time the adjustment is made.

In order to combine the CIP Adjustment with the FCA on the bill, OTP requested variances to the Commission's Billing Content and Automatic Adjustment Rules, Minn. Rules, Parts 7820.3500 (K) and 7825.2600, respectively. These rule parts require that a company separately itemize a fuel adjustment clause and state the per-kWh adjustment or the amount of the adjustment on the customer's bill.

D. Commission Action

1. Variances

The Commission finds that compliance with the cited portions of the Commission's Billing Content and Automatic Adjustment Rules would single out a particular expense thereby adversely affecting (imposing an excessive burden on) the Commission's long-standing efforts to promote conservation by integrating conservation measures into the routine operations of utilities. At the same time, granting the variance to permit combined presentation of the conservation adjustment would not adversely affect the public interest. The Commission's intent in adopting the cited rules was to show all data necessary for the customer to check the computation of the bill. This purpose is not frustrated by granting the variance. Finally, the Commission notes that the variance conflicts with no standards imposed by law.

In sum, the Commission finds that the prerequisites for granting a variance are met. See Minn. Rules, Part 7829.3200. Accordingly, the Commission will grant these variances.

2. Adjustment Mechanism

Following its review of the proposed settlement, the Commission finds that the terms of that settlement, which include a CIP adjustment mechanism, are reasonable and will approve them. The settlement is unique in that it calls for the establishment of a mechanism without making any specific adjustment to rates at this time. OTP will absorb \$3.8 million in deferred CIP expenses (amortized over a three-year period) and \$890,000 in CIP expenditures on an ongoing basis. The earliest any adjustment would apply to customer's bills would be July 1, 1995. Under this arrangement, OTP's 1995 return on equity (ROE) will be 10.4 percent. The Department advised and the Commission agrees that this ROE is reasonable.

In addition, the parties will still have the opportunity to examine the reasonableness of any proposed adjustment at the time it is filed. Finally, the Commission finds that the proposed mechanism itself is consistent with the recommendations of the Implementation Study Group and, more importantly, other CIP Adjustment mechanisms approved by the Commission.

3. Overall Settlement

In sum, the Commission finds that the proposed settlement is in the public interest and supported by substantial evidence in the record. The Commission will approve it, including the rule variances which have been analyzed separately above.

ORDER

1. The Settlement and Amended Petition, including the associated rule variances, filed October 18, 1994 in this matter is approved.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)